

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 8**

**PRODUCT ACTION INTERNATIONAL, LLC**

**Employer**

**and**

**Case Nos.      8-RC-16712  
                     8-RC-16713**

**INTERNATIONAL UNION, UNITED AUTOMOBILE, AEROSPACE  
AND AGRICULTURAL IMPLEMENT WORKERS OF AMERICA, UAW**

**Petitioner**

**DECISION AND DIRECTION OF ELECTIONS**

Upon petitions duly filed under Section 9(c) of the National Labor Relations Act, as amended (the Act), hearings were held before a hearing officer of the National Labor Relations Board (the Board).

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned.<sup>1</sup>

In Case No. 8-RC-16712, the following employees of the Employer constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

*All full-time senior quality inspectors, associate quality inspectors, quality inspectors and project coordinators working at the Employer's facility located in Toledo, Ohio, excluding all office clerical employees, professional employees, guards and supervisors as defined in the Act.*<sup>2</sup>

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<sup>1</sup> The Employer filed post-hearing briefs that have been duly considered. The hearing officer's rulings made at the hearings are free from prejudicial error and are hereby affirmed. The Employer is engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction herein. The labor organization involved claims to represent certain employees of the Employer. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.

<sup>2</sup> The Parties have stipulated that there are no part-time employees employed at either facility. At times, the Youngstown facility is referred to in the record as Austintown or Lordstown.

The record indicates that there are approximately 70 employees in the unit found to be appropriate.

In Case No. 8-RC-16713, the following employees of the Employer constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

*All full-time senior quality inspectors, associate quality inspectors, quality inspectors and project coordinators employed at the Employer's facility located in Youngstown, Ohio, excluding all office clerical employees, professional employees, guards and supervisors as defined in the Act.*

The record indicates that there are approximately 300 employees in the unit found appropriate.

### **I. Issues**

In Case No. 8-RC-16712, the Petitioner seeks to represent a single-unit facility located in Toledo, Ohio comprised of the Employer's quality inspector employees and project coordinators. In Case No. 8-RC-16713, the Petitioner filed a petition to represent a single-unit facility of the same classification of employees at the Employer's facility in Youngstown, Ohio. In both cases, the Employer has taken the position that it has rebutted the presumption that favors single facility bargaining units and that the only appropriate unit is a combined unit of employees at the Toledo and Youngstown facilities.<sup>3</sup>

### **II. Decision Summary**

I conclude that in both cases, the Employer has failed to rebut the single facility presumption. Accordingly, I find that the petitioned-for unit in Toledo, Ohio represents an appropriate bargaining unit. Similarly, I find that the unit sought by the Petitioner at the Youngstown, Ohio facility also constitutes an appropriate unit for the purposes of collective bargaining.

### **III. Facts**

The Employer provides quality control services to the automotive industry, including manufacturers and suppliers at its 35 locations nationwide. The Employer's corporate headquarters are located in Indianapolis, Indiana.

The Employer submitted evidence regarding the managerial hierarchy for the Toledo and Youngstown locations. Joseph Pezzarossi is the regional operations manager for the

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<sup>3</sup> The Petitioner urges that mail ballot elections be conducted for each location. The Employer does not believe that mail ballot elections are necessary. That matter will be addressed at the time the election arrangements are made by the Parties with the Board Agent handling the election arrangements.

Youngstown and Toledo facilities.<sup>4</sup> The highest ranking supervisory authority on site at Toledo and Youngstown is the Manager of Operations. Gregg Allen is the Manager of Operations at Youngstown. His counter part at Toledo is Laurie Bentley. Both of these managers report directly to Pezzarossi. In addition to the operations managers at both facilities, each facility has engagement managers. There are two such managers at Toledo and three at Youngstown. These managers report directly to Allen and Bentley. In turn, location supervisors report to the engagement managers. Ten location supervisors are employed at the Toledo, Ohio facility while 13 location supervisors work at the Lordstown facility.<sup>5</sup> The Toledo and Lordstown facilities are approximately 165 miles apart. There is no collective bargaining history at either location.

The Employer has centralized control over personnel and labor relations policies. The Employer's policies and procedures handbook for employees applies corporate-wide, as do employee benefits. The record also reflects that there are specific personnel policies or rules that apply to separate facilities. For example, each location may have its own policy regarding signing in for work and what types of safety equipment must be used by employees. Employee personnel files are located in the Indianapolis headquarters. However, some form of employee files are also kept at the facility locations. Payroll and accounting are handled at corporate headquarters. Although the record does not set forth the specific wage levels at the Toledo and Youngstown facilities, the starting pay and compensation structure is the same for both locations.

The initial call for customer service is handled at the corporate level. The decision to assign the work is made based on which facility can best handle the customer's needs. Once the facility is chosen to perform the work, the local facility managers have the responsibility for scheduling employees for the job. The local operations managers assign the location supervisors. Job assignments for inspectors are based upon who is available at the time. Inspectors and location supervisors work to meet the customers' needs. The local managers put together the work instructions that employees will follow in servicing the customer's needs. The type of work performed by the inspectors entails such tasks as sorting through hundreds or thousands of parts to determine how many are damaged or don't meet a certain specification.

Part of the team's job responsibilities includes determining at what point in the manufacture or supply chain the quality control problem arose. The record reflects that some employees work steadily at an assigned location instead of responding to emergency quality control problems. The record does not disclose the percentage of emergency responses. It appears from the record that at times employees work at the customer's facilities instead of at the Employer's facility in Youngstown or Toledo. The record does not indicate the percentage of time that employees work off-site at customer facilities versus working at the Employer facilities.<sup>6</sup> Youngstown employees work three shifts whereas the Toledo facility rarely works a

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<sup>4</sup> Pezzarossi also has responsibility for three locations in Michigan. The Employer has two other locations in Ohio, Dayton and Marysville. Pezzarossi has no responsibility for these Ohio facilities.

<sup>5</sup> The Employer's organizational charts also contain other job classifications that report directly to their respective manager of operations at each location. The Parties have stipulated that the location supervisors are supervisors within the meaning of the Act and are excluded from the units.

<sup>6</sup> Although no witness testified to the fact, the Employer's attorney represented at the hearing that approximately 85 % of the Youngstown employees work at the facility, while 15 % may be working for customer's at their locations.

third shift. Job openings for positions in Youngstown are not posted in Toledo, nor are openings in Toledo posted in the Youngstown facility.<sup>7</sup>

The Employer uses corporate recruiters to interview prospective employees. Standardized tests, such as sorting tests, are used at both the Youngstown and the Toledo locations. Although the record testimony was not specific, apparently recruiters are located nearby the Employer's facilities. There is no human resource manager onsite at Toledo or Youngstown. The Employer has regional human resource managers. Susan Norris is the resource manager responsible for the Toledo and Youngstown plants as well as Marysville and Dayton.<sup>8</sup>

Disciplinary actions for reasons other than attendance issues are reviewed by corporate HR and the regional operations manager. The record reflects, however, that location supervisors do possess the authority to discipline employees. Supervisors write up employees who fail to call in within a certain time frame, generally between 7:00 a.m. and 3:30 p.m. The Toledo employees work on an on-call basis and if they are paged they must call in between 7:00 a.m. and 3:00 p.m. Generally, they need to return a page within 15 to 20 minutes. Supervisors also discipline employees for inferior work. Both Toledo and Youngstown follow a corporate attendance policy. The local managers can discipline and terminate employees for attendance infractions. Paula Taylor, a witness presented by the Petitioner, testified that she went to local supervision for issues concerning time off, vacations, or problems with wages and hours.

The inspectors and project coordinators at the Toledo and Youngstown plant possess similar skills and job responsibilities. A number of temporary transfers occurred between the facilities between October 2004 and March 2005. Apparently, no employees were transferred from the Youngstown facility to the Toledo, facility. The Youngstown facility's business has grown rapidly in the last year. Approximately one year ago that plant employed 50 employees; today it employs over 300 employees. The significant change was attributed to the fact that several of the Employer's customers are launching new vehicle lines. Increased quality control issues occur with new product lines. Conversely, the Toledo plant is currently experiencing a slowdown in customer demand.

Between October 2004 and March 2005, 26 of the Employer's approximately 70 Toledo employees temporarily transferred to Youngstown. The time period of transfers in record evidence is 22 weeks. Approximately 64 % of that time, 5 or fewer Toledo employees worked at the Youngstown facility. The record does not reflect what, if any, interaction occurred between the Youngstown and Toledo employees while the Toledo employees were at Youngstown.

The Employer's witness, David Weilgus, Vice President of Human Resources testified that Toledo employees and Youngstown employees can work in teams. He gave no specifics as to how frequently this occurs or the job tasks that the employees perform when working together. Employees from other locations in addition to Toledo are also transferred to the Youngstown facility. At times, Toledo employees have been transferred to locations other than Youngstown.

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<sup>7</sup> It appears from the record that the posting for job positions is limited to project coordinator positions. Promotions for quality inspectors are based on seniority.

<sup>8</sup> Norris's office is in Marysville.

The record does not contain any specifics regarding these transfers. The decision to transfer Toledo employees is made at the corporate level. Employees in Toledo use pagers whereas Youngstown employees do not.

#### IV. Analysis

A single-unit facility is deemed presumptively appropriate unless it has been so effectively merged into a more comprehensive unit or is so functionally integrated that the facility has lost its separate identity. **J&L Plate, Inc., 310 NLRB 429 (1993)**. To determine whether the presumption has been rebutted, the Board considers such factors as centralized control over daily operations and labor relations, including the extent of local autonomy; similarity of skills and functions and working conditions; degree of employee interchange; geographic proximity; and bargaining history, if any. **New Britain Transportation Co., 330 NLRB 397 (1999)**.

In considering these factors, I find that the Employer has not rebutted the single facility presumption. Although the Employer has centralized control over the administration and labor relations policies, I find that there is sufficient local autonomy over labor relations. I note that each facility has its own extensive supervisory staff. Ten location supervisors report to Laurie Bentley, the manager of operations for Toledo. Thirteen location supervisors report to Greg Allen, the manager of operations at Lordstown. Location managers do have authority over some disciplinary matters. Local managers can write up employees for inferior work and attendance infractions. Local managers can grant requests for time off as well as vacations and deal with other day-to-day problems with working conditions such as hours. Where admitted supervisors are in charge of the immediate day-to-day supervision of the employees on site, significant local autonomy is established. Such site specific day-to-day supervision shows sufficient local autonomy. **First Security Services Corp., 329 NLRB 235 (1999)**; **Esco Corp., 298 NLRB 837 (1990)**, (finding significant local autonomy even though the employee overseeing day-to-day operations was not a statutory supervisor).

Although the employees possess similar skills, there are differences in working conditions between the two plants. The employees at the Toledo facility operate more on an on-call basis using pagers. The employees in the Toledo plant work two shifts whereas the Youngstown facility works three shifts. The Youngstown employees do not carry pagers. There can be varying local personnel policies or rules, such as signing in to work and use of various types of safety equipment. It appears from the record that the local managers are also responsible for carrying out the Employer's decisions regarding formal discipline. Under similar conditions, the Board has found that facility managers at location sites do play an important role in performing labor relations functions. **New Britain Transportation, 330 NLRB 397 (1999)**. I find that sufficient local autonomy and supervision exists to support the single facility presumption.

I also conclude that the evidence of temporary transfers from the Toledo facility to the Youngstown facility does not rebut the single facility presumption. While there appears to have been some degree of regularity in temporary transfers from Toledo to Youngstown for the period of October 2004 to March 2005, I do not find that these transfers are substantial. Nearly 65% of

the time, five or fewer Toledo employees were transferred to the Youngstown facility. There is no evidence that while there, they had any interaction with the Youngstown employees. Moreover, there is no evidence that any Youngstown employees have transferred to the Toledo facility.

This is not comparable to cases where the Board has found significant interchange. **Percolator Courier Corp., 265 NLRB 659 (1982)**. (interchange factor is met where 50% of the work force came within jurisdiction of other branches on a daily basis and there existed a greater degree of supervision from supervisors at other terminals than from supervisors at the employee's home terminals.) **Dayton Transport Corp., 270 NLRB 1114 (1984)** (Board found the presumption rebutted where in one year there were approximately 400 to 425 temporary employee interchanges between terminals among a workforce of 87 employees and the temporary employees were directly supervised by the terminal manager from the point of dispatch.) The transfers are on a voluntary basis. Employees do not receive disciplinary action if they choose not to transfer to another location. Voluntary interchange is given less weight in determining if employees from different locations share a common identity. **D&L Transportation, 324 NLRB 160 (1997)**.

The distance between the plants is also significant at 165 miles. The Board has found that where the distance between plants is significant the single facility presumption is strengthened. **Esco Corp., 298 NLRB 837 (1990)**. I note that there is no collective bargaining history at either the Toledo or the Youngstown facility.

Accordingly, I find that the separate local autonomy, the geographic separation and the lack of substantial interchange along with some variations in working conditions between the two plants outweigh the centralized control over the administration of the Employer's business and the labor relations. Under these circumstances the evidence presented does not compel the conclusion that the Toledo facility has been so effectively merged into the Youngstown facility that it has lost its separate identity.

The cases cited by the Employer in its brief do not persuade me that the single facility unit is an inappropriate unit. The Employer maintains that due to the degree of centralization of administration and labor relations at the Toledo and Youngstown facilities the only appropriate bargaining unit includes both facilities. In support of this argument, the Employer relies upon the following cases: **Budget Rent-a-Car Systems, 337 NLRB 884 (2002)** and **Napa Columbus Parts Co., 269 NLRB 1052 (1984)**. Both of these cases are distinguishable from the present case. In **Budget Rent-a-Car Systems**, the distance between the Employer's five facilities was approximately ten miles. The two facilities that were farthest apart were separated by approximately 40 minutes by car. Moreover, in that case, the single facility presumption did not apply as the Petitioner sought two stores in the Employer's Detroit area. In finding that the two petitioned-for stores were so effectively merged into a larger unit of five area stores in Detroit, the Board noted that there existed a significant degree of daily contact among the customer service coordinators of the five store locations as well as the mechanics. This degree of employee contact also served as evidence of functional integration among the facilities.

The same holds true for the **Napa Columbus Parts** case. In that case, there was extensive functional integration of operations. The Board determined that the Employer's distribution center and 19 retail auto parts stores involved significant employee contact. Drivers or stock clerks from the local stores made an average of five trips per day to the distribution center. These trips to the distribution center resulted in daily personal contact between the local stores drivers/stock clerks and the distribution center employees both at the main counter and working at the warehouse. The stores were in constant communication with the distribution center in order to keep the lines supplied, and deliveries from the distribution to the stores occurred on a daily basis.

That type of sustained functional integration is lacking in the present case. There simply is no daily reliance/contact between the Toledo and Youngstown employees that is part of the fabric of the Employer's operation. There is no evidence about what, if any, contact occurs during times of temporary transfer. The record indicates that the temporary transfers were not necessitated by the inherent nature of the Employer's operations, but rather by the fact that the Employer's customers in the Youngstown area were launching new product lines which dramatically increased Youngstown's business. There is no indication from the record that this is anything more than a temporary albeit dramatic upswing in Youngstown's business. The record demonstrates that at such times as a new vehicle launching, more quality control issues arise. In finding that the single facility presumption had not been rebutted, the Board in **J&L Plate, Inc., 310 NLRB 429 (1993)** noted that, despite the fact that there were temporary and permanent transfers among unit employees, there was virtually no evidence of contact between employees of the two facilities.

I also find cases cited by the Employer on the geographic distance involved to be inapposite to the circumstances of the present case. In **Waste Management, 331 NLRB 309 (2000)**, the Board found that the single facility presumption had been rebutted where there existed: functional integration of the Employer's operations; centralized control over personnel and labor relations policies; common supervision of employees at both locations; identical skills, duties and other terms and conditions of employment. The degree of interaction and coordination of the workforce between the facilities outweighed the two factors in favor of a single facility presumption: the 42 mile geographical distance between the two locations, and the Employer's failure to introduce relevant information regarding anything more than minimal interchange.

One significant difference between the present case and **Waste Management** is that at one of the Waste Management locations there was no fulltime supervisor present. The employees at that location kept in contact with the employer's office at the second location by radio contact throughout the day. Employees at both locations were in continuous contact with each other via office radio. The employer's "facility" that had no supervision consisted of an old office trailer. No one regularly worked in the trailer, it was only a place for the employer's route drivers to report for work. The facts in **Waste Management** are clearly distinguishable from the facts of the instant case. Thus, here the Youngstown facility has on site supervision that is responsible for over 300 unit employees on a daily basis. The supervisory hierarchy includes the manager of operations and, in turn, approximately thirteen location supervisors ultimately report to the manager of operations in Youngstown. The supervisory structure is similar at the Toledo,

Ohio facility. Approximately 10 location supervisors report to Laurie Bentley, the manager of operations at that facility. The regional operations manager, Joe Pezzarossi, is at the facilities on a sporadic basis. At times he may be at the Ohio facilities a few days of the week whereas at other times a more significant period of time passes before he visits the facilities. I am also mindful of the fact that he is responsible for three locations in Michigan.<sup>9</sup>

The Employer also relies upon **Alamo Rent-a-Car, 330 NLRB 897 (2000)**, where the Board reversed the Regional Director's exclusion of facilities from a unit because of geographic distance. The facts presented in **Alamo Rent-a-Car** did not involve the single facility presumption. The Petitioner in that case sought a multi-location unit: two car rental facilities at the employer's airport locations. The Board reversed the Regional Director's determination that these two separate units were an appropriate unit and found that the unit should also include two downtown store locations. The Board noted that the Regional Director erred in finding that there was more functional integration between the two petitioned-for units than among the four units. In so finding, the Board noted that cars regularly shuttled for service between the airport and downtown locations. Approximately half of the cars rented at the downtown locations were dropped off at the airport and the airport employees returned the cars to the downtown locations. In reaching its determination, the Board specifically noted that the issue of the appropriateness of a single facility unit was not before it. **Id at fn. 9.**

I am also not persuaded by the Board's decision in **Macy's West, Inc., 327 NLRB 1222 (1999)**. The Board found that a multi-facility unit comprised of locations in Nevada and New Mexico were appropriate. In that case, some of the locations were as much as 400 miles apart. Again, no single location presumption was involved in that case. The petitioner sought a multi-location unit of all maintenance engineers employed at six of the employer's facilities in Phoenix and Tucson, Arizona. Those facilities were approximately 120 miles apart. In finding that the stores in Las Vegas, Nevada and Albuquerque, New Mexico should be included in the petitioned-for unit, the Board noted that they were dealing with the question of whether a petitioned-for multi-unit was appropriate rather than a single unit facility.<sup>10</sup>

The Employer relies upon **St. Luke's Health System, Inc., 340 NLRB 139 (2003)**, in urging that the interchange present between the Toledo and Youngstown facilities constitutes substantial interchange. The employer in that case operated 21 health care clinics in a distinct geographical area. Approximately 15-20% of the employees within all job classifications were

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<sup>9</sup> I do not find the fact that Susan Norris is in daily phone contact with the Youngstown and Toledo facilities renders the present situation comparable to those found in **Waste Management**.

<sup>10</sup> In its brief, the Employer refers to **Neodata Products, Inc., 312 NLRB 987 (1993)**, indicating that the Board found an appropriate unit comprised of facilities that were 90 miles apart. Upon a close reading of the case, I note that Employer's facility in Clarion, Iowa, which was located approximately 90 miles from the Employer's Des Moines, Iowa facilities, was not at issue in the case. The Board found that the Employer's Washington facility and its 10<sup>th</sup> Street facility, located approximately three miles apart, constituted an appropriate unit for purposes of collective bargaining. The Board was persuaded, in particular, by the fact that the employees at the two facilities were in daily personal contact with each other and that there was a symbiotic relationship between the two facilities with regard to the Employer's order flow process. The Employer also relied upon the Board's decision in **Coors Co., 309 NLRB 322 (1992)**, to diminish the significance of the geographical distance in the present case. In **Coors**, the facilities found to constitute an appropriate bargaining unit were 90 miles apart. The petitioner had petitioned for a multi-unit location. Among other factors that persuaded the Board that these facilities should be considered a single unit, was the fact that the employees of the two facilities had regular contact with each other.



temporarily assigned to other clinics. It was standard practice for employees to “float” among the clinics where needed. The single facility that the petitioner sought to represent acted as the hub for the employer’s network wide floating coverage system. The employees who floated among the facilities worked directly with the employees normally stationed at the clinic. The Board concluded that the employer demonstrated that the clinics operated as a single network and were so functionally integrated with respect to the services provided that the presumption had been overcome. Moreover, unlike the present case, job openings were posted at all locations.

In the present case, I find that the significant geographic distance, lack of collective bargaining history, lack of any significant interchange of employees or functional integration that brings employees into any meaningful contact, as well as the local autonomy retained by supervision in Toledo and Youngstown, outweigh the centralized control over administrative and labor relations policies and the similarity of skills required for the job classifications sought by the Petitioner at each location.

I conclude that the Employer has not overcome the presumption favoring single unit facilities. Accordingly, the bargaining unit described in this decision and direction of election for employees at the Toledo, Ohio facility constitutes an appropriate unit for collective bargaining as does the unit description for the Youngstown, Ohio facility.

### **DIRECTION OF ELECTIONS**

An election by secret ballot shall be conducted by the undersigned among the employees in both of the units found appropriate at the time and place set forth in the notice of election to issue subsequently, subject to the Board's Rules and Regulations. Eligible to vote are those in the unit who were employed during the payroll period ending immediately preceding the date of this Decision, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Employees engaged in an economic strike, who have retained their status as strikers and who have not been permanently replaced are also eligible to vote. In addition, in an economic strike which commenced less than 12 months before the election, employees engaged in such strike who have retained their status as strikers but who have been permanently replaced, as well as their replacements are eligible to vote. Those in the military services of the United States may vote if they appear in person at the polls. Ineligible to vote are employees who have quit or been discharged for cause since the designated payroll period, employees engaged in a strike who have been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date, and employees engaged in an economic strike which commenced more than 12 months before the election date and who have been permanently replaced. Those eligible shall vote whether or not they desire to be represented for collective bargaining purposes by INTERNATIONAL UNION, UNITED AUTOMOBILE, AEROSPACE AND AGRICULTURAL IMPLEMENT WORKERS OF AMERICA, UAW.

### **LIST OF VOTERS**

In order to ensure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties in the election should have access to a list of voters and their addresses which may be used to communicate with them. **Excelsior**

**Underwear, Inc., 156 NLRB 1236 (1966); NLRB v. Wyman-Gordon Company, 394 U.S. 759 (1969).** Accordingly, it is directed that an eligibility list containing the *full* names and addresses of all the eligible voters must be filed by the Employer with the Regional Director within seven (7) days from the date of this Decision. **North Macon Health Care Facility, 315 NLRB 359 (1994).** The Regional Director shall make the list available to all parties to the election. No extension of time to file the list shall be granted by the Regional Director except in extraordinary circumstances. Failure to comply with this requirement shall be grounds for setting aside the election whenever proper objections are filed.

### **RIGHT TO REQUEST REVIEW**

Under the provision of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street, N.W., Washington, D.C. 20570-0001. This request must be received by the Board in Washington by May 19, 2005.

**DATED** at Cleveland, Ohio this 5<sup>th</sup> day of May 2005.

/s/ Frederick J. Calatrello

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Frederick J. Calatrello  
Regional Director  
National Labor Relations Board  
Region 8